

ELECTION WITH TRAVERSE:

The Restriction Requirement alleges that the subject Application contains claims directed to the following three Groups of distinct inventions (21 October 2005 Office Action, Page 2):

- I. Claims 20-25, drawn to a guard, classified in class 30, subclass 286.
- II. Claims 26-31, drawn to a reciprocating saw, classified in class 30, subclass 392.
- III. Claims 32-34, drawn to a method of field-dressing an animal carcass, classified in class 83, subclass 13.

Applicant elects, with traverse, to pursue Group II, Claims 26-31, drawn to a reciprocating saw.

The Applicant submits that the foregoing election is not an acquiescence in the propriety of the restriction or in the accuracy in the determination and/or identification of the alleged "distinct inventions" in the subject Application. The Applicant respectfully requests withdrawal of the Restriction Requirement as set forth below, as the Requirement is improper.

REMARKS:

Applicant hereby elects Group II, Claims 26-31, drawn to a reciprocating saw, with traverse, in accordance with the applicable Rules of Practice and to advance the prosecution of the subject Application. However, the Applicant respectfully submits that the Restriction Requirement is improper.

For a restriction requirement to be proper between patentably distinct inventions, the inventions must be independent and there must be a serious burden on the examiner. A serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search. See MPEP 803. Applicant respectfully asserts that the Office has not met any of these standards.

MPEP 808.02 is clear, in that “[w]here the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions.” Further, MPEP 803 clearly states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

The Applicant submits that the claims do not represent separate inventions and that examination of the entire application can be made without serious burden on the Examiner. The claims are directed to a guard for a reciprocating saw which forms a seal with the blade, a reciprocating saw having such a guard, and a method of using such a guard and saw. All of these inventions are related by the fact that they all contain the unique guard configuration.

For these reasons, the Applicant respectfully submits that the requirement for restriction is improper and should be withdrawn.

Because the Applicant has elected an alleged Group and set forth the claims directed to that species, as set forth by the Examiner, this response is complete.

CONCLUSION:


In view of the foregoing election with traverse and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

No fees are deemed to be necessary; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 502806**.

Please link this application to Customer Nos. 50779 and 38441 so that its status may be checked via the PAIR System.

Respectfully submitted,

11/2/05
Date


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CUSTOMER NOS. 50779 AND 38441

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